

Notice of Allowability

Application No.

09/756,819

Examiner

Trent J Roche

Applicant(s)

ANDERSON, THOMAS G.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to communications file 7 September 2004.
2. ☒ The allowed claim(s) is/are 2-26, 28-34, 36-52, 54 and 56 (renumbered as 1-51).
3. ☒ The drawings filed on 09 January 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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DETAILED ACTION

1. This office action is responsive to communications filed 7 September 2004.
2. Per applicant's request, amended claims 7, 8, 24, 30, 31 and 54 have been entered. Claim 55 has been canceled. Claims 2-26, 28-34, 36-52, 54 and 56 are now pending.
3. Claims 2-26, 28-34, 36-52, 54 and 56 have been examined.

Allowable Subject Matter

4. Claims 2-26, 28-34, 36-52, 54 and 56 (renumbered as 1-51) are allowed.
5. The following is an examiner's statement of reasons for allowance:

The closest found prior art of record, specifically U.S. Patent 5,778,368 to Hogan et al., taken alone or in combination with U.S. Publication 2001/0032189 A1 to Powell, fail to teach or reasonably suggest a method of using a computer network to facilitate distributed software development in such a manner as recited in independent claims 8, 24, 31, 50, 52, 54 and 56.

Hogan et al. disclose a repository system allowing users to search and download software from the repository server. The repository server further allows repository units to be searched, played, checked-in, checked-out, or purchased by repository users. Furthermore, attributes may be assigned to repository units to allow repository users to search for a specific repository unit. However, Hogan et al. does not explicitly disclose the steps required by independent claims 8, 24, 31, 50, 52, 54 and 56. Specifically, Hogan et al. fail to disclose or reasonably suggest accepting at the module manager user access conditions and user computer access information upon submission of a software module, and when a download occurs, accessing from the pool the access conditions associated with the download software module, *wherein said SAC include at least one of: subsequent*

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distribution limited to object code; subsequent distribution only allowed on payment of a fee; subsequent distribution to downloaders for research use is allowed on payment of a fee lower than distribution to downloaders for commercial use; distribution from the module pool is allowed, but further distribution by downloaders from the module pool is prohibited; distribution from the module pool is allowed, but further distribution by downloaders is allowed only after payment of a fee. (claim 8). Similar features are recited in independent claim 31.

In regards to independent claims 24 and 50, Hogan et al. fail to disclose or reasonably suggest the access conditions as recited in claim 8, further *wherein the fee is determined from an indication of the demand for the DSM, wherein the indication of demand increases with increasing number of downloads of the module, and decreases with increasing number of downloads of other modules from the pool.*

In regards to independent claims 52 and 54, Hogan et al. fail to disclose or reasonable suggest the access conditions as recited in claim 8, further *wherein the download step allows download of a plurality of modules, and further comprising determining a fee associated with the download of the plurality of modules,*

where the fee is allocated among modules according to $F_j = F_T W_T \frac{w_j v_j}{\sum_i w_i v_i}$, where F_T is the total fee, W_T is a

proportion of the total fee to be allocated among modules, F_j is the fee allocated to module j , v_i is an indication of the value of module i , and w_i is a weighting applied to the value of module i , and wherein modules submitted earlier in the module pool have a larger w_i than they would have received had they been submitted later.

In regards to independent claim 56, Hogan et al. fail to disclose or reasonable suggest the access conditions as recited in claim 8, further *wherein modules in the pool are characterized by membership in one of three classes, wherein the first class denotes modules not available for commercialization, the second class denotes modules available for commercialization, and the third class denotes modules available for commercialization and having a higher quality than modules in the second class.*

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trent J Roche whose telephone number is (571)272-3733. The examiner can normally be reached on Monday - Friday, 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571)272-3719. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Trent J Roche
Examiner
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TJR



KAKALI CHAKI
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